

**To:** Johnson, Kathleen[Johnson.Kathleen@epa.gov]  
**From:** Giles-AA, Cynthia  
**Sent:** Fri 3/6/2015 10:33:21 PM  
**Subject:** RE: BDCP update for Administrator

Here is what I am sending. I will copy Jared on my note. Many thanks for the head's up.

**Bay Delta.** Governor Brown of California is expected to be in DC next week, and to seek a meeting with you to talk about this long standing project. We only have a bare outline of what the state is thinking about doing to change the project from its current very controversial position, and nothing in writing, so hard to say what we would think about it. They appear to be proposing significantly scaling back the project goals. He may be looking for agreement from you, Secretary Jewel and Secretary Pritzker on this new approach next week. Given that we have not yet seen anything in writing on this idea, or how they think it squares with NEPA, it will likely be challenging to comment on the merits at a meeting next week. If you do get this meeting request, Region 9, OECA and OW could prepare some background and suggested talking points for you. (copied Ken and Jared)

**From:** Johnson, Kathleen  
**Sent:** Friday, March 06, 2015 2:03 PM  
**To:** Giles-AA, Cynthia  
**Subject:** FW: BDCP update for Administrator

Hi Cynthia,

This is what Jane and I submitted to our front office. They will probably shorten it in their submittal to Gina. We will start working on some potential talking points for next week in case the meeting happens.

Kathleen H. Johnson

Director, Enforcement Division

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**From:** Diamond, Jane  
**Sent:** Friday, March 06, 2015 8:43 AM  
**To:** Strauss, Alexis  
**Cc:** Johnson, Kathleen  
**Subject:** BDCP update for Administrator

Alexis, here's a proposed summary from me and Kathleen (with ORC input) on developments on BDCP for Jared's weekend to the Administrator:

My senior staff had a telephone call on March 5 with the State of California and other federal agencies about the Bay Delta Conservation Plan (BDCP), in which the State outlined its "Change in Direction" for the BDCP. In short, the proposal is to substantially scale back the project, eliminating the Habitat Conservation Plan (HCP) aspect of this project, and instead pursuing a much more limited ESA Section 7 permit for the "twin Delta tunnels", as a stand-alone project primarily addressing water supply goals. This is a major shift in the approach from the past nine years, which had attempted to meet both ecosystem restoration and water supply goals in the face of the threat of ecosystem collapse in the Delta.

We understand that Governor Brown will be seeking meetings with you, Secretary Jewell and Secretary Pritzker of Commerce next week to discuss this substantial change in the project. The Governor may ask for EPA's buy-in for both the newly-defined project and for the creative approach they have outlined for NEPA compliance. However, while discussions among our agencies over the past six months have produced a common understanding of the additional information needed in the Supplemental DEIS that the lead agencies agreed to publish following EPA's August 2014 NEPA comments on the DEIS, we have not yet seen any text reflecting the planned changes. Further, given that we have only had oral discussion on this major change in the scale of the project and how it will be reflected in the NEPA

Supplemental, and that we have only recently been given permission by the State to discuss the proposal with our staff experts, it would be premature to indicate we will not have concerns. We will commit to continue working cooperatively with the project proponents at all levels. We will provide you with additional talking points if your meeting with the Governor is confirmed.

On a related matter, I appreciate your acknowledgment of Region 9's cooperative efforts with the parties, and our concerns being shared by many stakeholders, in your responses to Rep. Calvert's BDCP comments at your budget hearing last week. The State continues to express its surprise upon receiving our August 2014 NEPA comments, despite very similar comments provided in 2013 by EPA and other agencies on the administrative DEIS, which were not addressed in the published DEIS.

Kathleen H. Johnson

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